

REMARKS**Summary of the Office Action**

Claims 1, 4-6, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,671,444 to Oliver ("Oliver").

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oliver in view of U.S. Patent No. 3,029,436 to Kufel ("Kufel").

Summary of the Response to the Office Action

Applicant has amended claim 1. Claims 1 and 3-9 are presently pending for further consideration.

Rejection Under 35 U.S.C. § 102(b)

Claims 1, 4-6, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Oliver. Applicant respectfully traverses the rejection of claim 1 as amended and claims 4-6, 8, and 9 as previously presented.

Claim 1 has been amended to recite that "the support surface of the pusher projects from the pusher toward the guide surface such that the contact surface of the pusher will not contact the guide surface in the absence of staples" as recited in previously presented claim 6. The Office Action states that "[a]s shown in Figs. 13 and 14, the pusher 228 does not contact the guide surface in the absence of staples." The description of Fig. 14 of Oliver is of a sectional view "showing the parts in the position into which they are moved in order to effect clearance of the drive track from a staple jam." (col. 2, lines 41-43.) Fig. 11 of Oliver, on the other hand, shows "the staple feeding member 228 in its forward limiting portion." (col. 10, lines 15-16.)

The Office Action alleges that staple feeding member 228 and guide member 212 of Oliver correspond to the pusher and guide surface, respectively, of claims 1 and 6. Fig. 11 of Oliver shows projecting portions 232 of the staple feeding member 228 (alleged to correspond to the pusher of claims 1 and 6) in contact with defining end portions 218 of guide member 212 (alleged to correspond to the guide surface of claims 1 and 6). Thus, the pusher will contact the guide surface in the absence of staples contrary to the requirements of claims 1 and 6.

Even if, for the sake of argument and as recited in claims 1 and 6, the alleged pusher of Oliver did not contact the alleged guide surface, the claims also require that the lack of contact be a result of the support surface of the pusher projecting toward the guide surface. The Office Action alleges that inclined cam surface 316 of Oliver corresponds to the support surface recited in claims 1 and 6. However, as shown in Figs. 11 and 13, the inclined cam surface extends through an opening in the guide member 212 (alleged to be the guide surface). Therefore, the inclined cam surface 316 cannot prevent the pusher from contacting the guide surface as recited in claims 1 and 6.

For at least the above reasons, Applicant respectfully requests that the rejection of claims 1, 4-6, 8, and 9 under 35 U.S.C. § 102(b) as being anticipated by Oliver be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oliver in view of Kufel. Applicant respectfully traverses the rejection.

Applicant respectfully asserts that claims 3 and 7 are in condition for allowance based on their dependence from claims 1 and 6. Kufel does nothing to overcome the deficiencies of

Oliver. For at least these reasons, Applicant respectfully asserts that claims 1 and 7 are in condition for allowance.

Applicant respectfully asserts that claims 1 and 3-9 are in condition for allowance.

Prompt allowance of claims 1 and 3-9 is requested.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

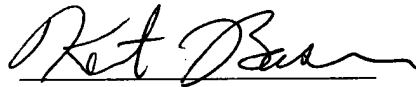
If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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Dated: April 3, 2008

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